

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**JOHNNIE BURTON, personally and as Personal
Representative for MATILDA BURTON (deceased),**

Plaintiffs,

vs.

No. 1:14-cv-888

**DEPUTY WAGNER, arresting deputy with the
San Juan County Sheriff's Office individually and
under the color of law, CHRISTOPHER SMART, Supervisor,
individually and in his capacity as a state actor under the color of law,
VALARIE REYNASO, Supervisor, in her individual
capacity under color of law, and Officers MICHAEL GOMEZ,
REBECCA HAM, KATHLEEN GREEN, RONALD FOUST,
LORETTA WHITE, individually and as state actors under
the color of law, THE SAN JUAN
COUNTY DETENTION CENTER, SAN JUAN COUNTY,
and CORRECTIONAL HEALTHCARE COMPANIES ("CHC"),**

Defendants.

NOTICE OF REMOVAL OF CIVIL ACTION

COME NOW Defendants Correctional Healthcare Companies and Timothy McMurray, M.D., ("CHC Defendants") by and through their Counsel of Record, Park & Associates, L.L.C. (Alfred A. Park and Lawrence M. Marcus), and pursuant to 28 U.S.C. § 1446, submit this Notice of Removal of Civil Action and in support state:

1. Pursuant to 28 U.S.C. § 1441, any civil action brought in a State Court of which the District Courts of the United States have original jurisdiction may be removed by the Defendant to the District Court of the United States for the district and division embracing the place where such action is pending.

2. A defendant wishing to remove an action to a federal District Court may remove the action within thirty (30) or receipt, by service or otherwise, of the initial pleading. 28 U.S.C. § 1446 (b)(1).

3. On August 26, 2014, Plaintiffs filed this action in the Eleventh Judicial District Court, County of San Juan, State of New Mexico, as Case No. CV-2014-00943.

4. Correctional Healthcare Companies, Inc., was served with the Complaint and Summons on September 11, 2014.

5. This Complaint contains two causes of action brought pursuant to federal law, for alleged violations of 42 U.S.C. § 1983 (Count IX) and 42 U.S.C. Ch. 126 § 12101 *et seq* (Count X). *See* Plaintiffs' Complaint attached as Exhibit "A."

6. This Removal is timely.

7. On information and belief, Plaintiff is a citizen of the State of New Mexico. *See* Plaintiffs' Complaint attached as Exhibit "A."

8. Defendant Correctional Healthcare Companies, Inc., is a Colorado corporation doing business in the State of New Mexico

9. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as the Complaint alleges claims for violations of federal rights in violation of 42 U.S.C. § 1983 and 42 U.S.C. § 12101

10. The Court has jurisdiction over Plaintiff's additional claims pursuant to 42 U.S.C. §§ 1367 (a) & 1441(c).

11. Written notice of the filing of this Notice of Removal will be served on Plaintiff promptly after it is filed.

12. A Notice of Filing Notice of Removal, along with a true and correct copy of this Notice of Removal, will be filed with the Clerk of the Eleventh Judicial District Court, County of San Juan, State of New Mexico, promptly after the filing of this Notice of Removal.

13. The remaining Defendants ("San Juan County Defendants") consent to removal.

14. A Civil Cover Sheet is attached hereto as Exhibit B.

Respectfully Submitted,

PARK & ASSOCIATES, LLC

/s/ Lawrence M. Marcus
Alfred A. Park
Lawrence M. Marcus
*Attorney for Defendants Correctional
Healthcare Companies, Inc. and Timothy
McMurray, M.D.*
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Albuquerque, NM 87110
(505) 246-2805

I hereby certify a true and correct
copy of the above was served by
U.S. Mail on 2nd of October,
2014

Jennifer D. Yoder
Tucker, Burns, Yoder & Hatfield
105 N. Orchard Ave.
Farmington, NM 87401
Attorney for Plaintiffs

/s/ Lawrence M. Marcus
Lawrence M. Marcus